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September 9, 2013

BY E-FILING

The Honorable Richard G. Andrews
J. Caleb Boggs Federal Building
844 N. King Street
Unit 9, Room 2325
Wilmington, DE 19801-3555

Re: *IpLearn LLC v. Kenexa Corp., et al.*, C.A. No. 11-825 (RGA);
IpLearn LLC v. Blackboard Inc., C.A. No. 11-876 (RGA); and
IpLearn LLC v. K12, Inc., C.A. No. 11-1026 (RGA)

Dear Judge Andrews:

We write on behalf of Oracle, a defendant in C.A. No. 11-825, in connection with the claim construction hearing, which has been consolidated with the claim construction hearing in C.A. Nos. 11-876 and 11-1026 and scheduled for three days. In particular, we write concerning the Oral Order issued today, moving two of the three dates for the claim construction hearing.

The Court set the consolidated claim construction hearing for three days: September 30 and October 2 and 4, 2013. On August 28 and 29, 2013, Blackboard submitted letters concerning scheduling conflicts of its counsel because of a law firm retreat for the latter two dates (October 2 and 4). C.A. No. 11-876; D.I. 98, 99. On August 30, counsel for Blackboard emailed counsel for Oracle and the other parties in the three cases to say that the Court had called to offer alternative dates of October 15 and 18 to accommodate Blackboard's counsel's conflict, but that "Judge Andrews' clerk asked that we confirm that these dates work for all parties before she will remove the October 2 and 4 dates from the Judge's calendar." In view of that message, we understood that the hearing would not be moved unless the new dates were acceptable to all parties.

Counsel for Oracle immediately advised Blackboard by email on August 30 that Oracle could not accommodate moving the hearing to the two alternative dates given in October. Counsel for IpLearn also advised Blackboard on September 4 that the October 18 date "may be problematic" due to pre-trial activities in another case.

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On September 4, counsel for Blackboard indicated she would contact the Court to request additional availability in view of the conflicts for Oracle and IpLearn. Later that day, counsel for Oracle proposed moving the hearing to later in October, should the Court's schedule accommodate such a change, and requested that Oracle be included in any further discussions with the Court concerning scheduling of the claim construction hearing. Counsel for Blackboard subsequently advised that they were working on the issue internally.

As indicated above, counsel for Oracle in this case has conflicts with the October 15 and 18 dates just re-set by the Court for the claim construction hearing. Those conflicts include a conflicting claim construction hearing I have in *BT v. Cox* (C.A. No. 10-658) before Judge Robinson on October 18 which has been set for almost two years and a conflict that Oracle's in-house counsel involved in managing the day-to-day litigation has with October 15. Oracle does not have any conflicts with the original dates set for the claim construction hearing of September 30 and October 2 and 4, but is of course willing to work with the Court and the other parties to find new dates, mindful of the remaining deadlines set by the Scheduling Order in this case. Accordingly, Oracle respectfully requests that the Court allow the parties in the three consolidated cases the opportunity to meet and confer, and consult with the Court, to determine possible dates for the claim construction hearing.

Respectfully,

/s/ Mary B. Graham

Mary B. Graham (#2256)

MBG/rah

cc: All Counsel of Record (by CM/ECF)

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